

1989

Session Law 89-243

Florida Senate & House of Representatives

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H 331 GENERAL BILL/CS/1ST ENG by Insurance; Abrams; Renke; Kelly (Identical CS/S 1246)

Motor Vehicle Insurance; redefines term "uninsured motor vehicle" for purposes of uninsured motor vehicle coverage; that insurer may elect binding arbitration or trial; prohibits certain insurer actions; prescribes requirements for uninsured motorist coverage; provides that personal injury protection coverage shall include death benefits in specified amount. Amends 627.727, .736. Effective Date: 10/01/89.

02/15/89 HOUSE Prefiled; Referred to Insurance; Appropriations
02/17/89 HOUSE Subreferred to Subcommittee on Property and Casualty
02/20/89 HOUSE On subcommittee agenda—Insurance, 03/07/89, 10:00 am, 317-HOB

03/09/89 HOUSE Subcommittee Recommendation: Favorable
04/04/89 HOUSE Introduced, referred to Insurance; Appropriations -HJ 40; Subreferred to Subcommittee on Property and Casualty; On Committee agenda—Insurance, 04/05/89, 11:15 am, 317-C—For ratification to subcommittee

04/20/89 HOUSE On Committee agenda—Insurance, 04/24/89, 2:00 pm, 317-C

04/24/89 HOUSE Preliminary Committee Action by Insurance: Favorable as a CS

05/02/89 HOUSE Comm. Report: CS by Insurance -HJ 338; CS read first time -HJ 333; Now in Appropriations -HJ 338

05/09/89 HOUSE Withdrawn from Appropriations -HJ 432; Placed on Calendar; Placed on Special Order Calendar

05/10/89 HOUSE Read second time -HJ 450; Amendments adopted -HJ 452
05/11/89 HOUSE Read third time -HJ 463; CS passed as amended; YEAS 108 NAYS 5 -HJ 464

05/16/89 SENATE In Messages
05/25/89 SENATE Received -SJ 458; Substituted for CS/SB 1246; CS passed; YEAS 31 NAYS 0 -SJ 459

05/26/89 Ordered enrolled
06/13/89 Signed by Officers and presented to Governor
06/29/89 Became Law without Governor's Signature; Chapter No. 89-243

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: H0331-f.inv
DATE: June 30, 1989

HOUSE OF REPRESENTATIVES
INSURANCE COMMITTEE
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 331

RELATING TO: Excess Motorist Coverage

SPONSOR(S): Committee on Insurance and Representatives Abrams, Renke & Kelly

EFFECTIVE DATE: October 1, 1989

DATE BECAME LAW: June 29, 1989

CHAPTER #: 89-243, Laws of Florida

COMPANION BILL(S): CS/SB 1246

OTHER COMMITTEES OF REFERENCE: (1) Appropriations
(2) None

I. SUMMARY:

This bill will repeal the portion of the Motor Vehicle Reform Act of 1988 that relates to excess uninsured motorist (UM) coverage. The bill clarifies the definition of uninsured motor vehicle. The bill also provides that if insurers have arbitration clauses in their UM policies and if they choose to arbitrate, the result is binding. Finally, the bill changes the amount for funeral expenses to a specific death benefit in personal injury protection (PIP) policies.

A. PRESENT SITUATION:

The 1988 Motor Vehicle Reform Act, Chapter 88-370, eliminated excess uninsured motorist coverage effective October 1, 1989. Until that date, a motorist who is not at fault in an accident with a motorist who has liability insurance will be eligible to collect his own UM coverage up to the policy limit, regardless of whether the at fault motorist has liability insurance. For example, if Motorist A, who has \$100,000 of UM coverage, incurs \$150,000 in medical bills from an accident caused by Motorist B, who has 10,000 in liability insurance, Motorist A can collect \$10,000 from Motorist B's policy, plus \$100,000 on his own UM policy, for a total of \$110,000. Given the same set of circumstances after repeal of excess UM coverage, Motorist A would receive only \$100,000. Motorist A would collect only \$90,000 (the "difference in limits") from his own UM policy because the \$10,000 he collects from Motorist A's liability policy is deducted from the \$100,000 UM limit.

Presently, Shelby Mutual v. Smith, 527 So.2d 830 (Fla. 4th DCA 1988), and USF & G v. Woolard 523 So.2d 798 (Fla. 1st DCA 1988) conflict and the Shelby Court cited some analyses which concluded

that while the Legislature had intended to create excess coverage, the Legislature should amend s. 627.727(3)(b) to clear up an ambiguity in the law.

The Florida Motor Vehicle No-Fault Law (ss. 627.730-627.7405, F.S.) requires the owner and operator of a motor vehicle to maintain PIP throughout the registration or licensing period. PIP coverage extends to motor vehicle owners, relatives residing with the insured, certain passengers, and pedestrians struck by the owner's vehicle. It is payable without regard to fault and will pay reimbursement of 80 percent of medical and related expenses, 60 percent of lost income and funeral expenses up to \$1,750.

B. EFFECT OF PROPOSED CHANGES:

The bill reverses the amendments made by section 15 of chapter 88-370, thereby restoring excess uninsured motorist coverage. It also amends s. 627.727(3)(b), to clear up Legislative intent that UM coverage is excess. The bill provides that arbitration, if elected, is binding. The bill amends s. 627.736(1)(c) to increase death benefits to \$5,000 per individual under PIP coverage.

C. SECTION-BY-SECTION ANALYSIS:

None

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

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2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

None

III. LONG RANGE CONSEQUENCES:

This bill does not directly relate to and is not inconsistent with the goals and policies specified in the State Comprehensive Plan.

IV. COMMENTS:

The mission of the Insurance Committee is to construct insurance laws which will require payment of claims when due, promote the availability of affordable insurance, stabilize insurance rates, protect the solvency of insurance institutions, and expand the ability of companies to profit from wise investments. This bill does not directly relate to the specific mission of the Committee. Insurance companies may charge higher premiums for the additional coverage the bill requires for all uninsured motorist policies.

V. SIGNATURES:


SUBSTANTIVE COMMITTEE:

Prepared by:



H. Fred Vorn

Staff Director:



John Guthrie

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Frank Morgan

Staff Director:

James Zingale

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Stupski (J)</u>	<u>Fort <i>MS</i></u>	1. <u>INS</u>	<u>Fav/CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Automobile Insurance

BILL NO. AND SPONSOR:

CS/SB 1246 by Insurance and Senator Weinstein

I. SUMMARY:

A. Present Situation:

Florida law requires all liability insurance policies issued in Florida to include uninsured motorist coverage (UM) unless the policyholder specifically rejects UM coverage. Uninsured motorist coverage provides financial protection in the event the insured is injured by a negligent driver that does not have liability coverage or does not have enough coverage to pay the claims of the injured driver.

Current law requires that the payment of uninsured motorists protection is in excess of the amount of liability coverage that is carried by the underinsured motorist.

For example, assume Motorist A has \$100,000 in UM coverage and Motorist B has \$10,000 in liability coverage. Suppose Motorist B is responsible for an accident with Motorist A that results in Motorist A incurring \$150,000 in medical expenses. Under current law, Motorist A could collect \$10,000 from B as well as \$100,000 from his own UM coverage, since the total expense exceeded Motorist B's liability coverage.

Beginning October 1, 1989, excess uninsured motorist coverage will no longer be required as a result of the "Motor Vehicle Insurance Reform Act of 1988," (ch. 88-370, Laws of Florida). Under the new law, difference in limits of coverage will be acceptable for uninsured motorist coverage. Difference in limits allows motorists to recover up to the difference between the negligent motorist's liability coverage and the amounts contained in the motorists UM coverage.

Thus, in the example where Motorist A with \$100,000 in UM coverage suffers \$150,000 in injuries as a result of Motorist B, who has \$10,000 in liability coverage, Motorist A would recover \$100,000. Recovery would consist of \$10,000 of Motorist B's coverage, plus \$90,000 from Motorist A's uninsured motorist coverage.

Current law requires UM coverage to stack unless the uninsured specifically rejects stacked coverage. Stacked UM coverage means the insured may add together the limits applicable to each insured vehicle. Thus, a vehicle owner having UM coverage of \$10,000 per person, \$20,000 for two or more person, will have \$20,000/\$40,000 of stacked UM coverage.

Section 627.727(6), F.S., allows for arbitration to settle claims against uninsured motorist's insurers that may arise as a result of settlements against liability insurers that do not satisfy claims. Current law and court decisions allow the results of these arbitrations to be nonbinding.

Current law requires personal injury protection to include death benefits not to exceed \$1,780.

B. Effect of Proposed Changes:

CS/SB 1246 would delete the provisions of ch. 88-370, Laws of Florida, that establishes difference in limit coverage for uninsured motorist coverage that is effective on October 1, 1989. The bill replaces the scheduled implementation of difference in limit UM coverage with required excess UM coverage. Excess UM coverage allows policyholders to obtain payments up to the limits of UM coverage to satisfy claims. Liability coverage of underinsured motorist would not offset UM coverage payments.

The bill requires results of arbitration determining uninsured motorist claims coverage to be binding on the parties.

The committee substitute provides for \$5,000 PIP death benefits.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Requiring excess UM coverage will prevent policyholders from experiencing cost savings, predicted from implementing difference in limit UM coverage. The Department of Insurance is estimating cost savings in UM expense of \$4-\$32 due to implementing difference in limits coverage.

Requiring \$5,000 of PIP death benefits may increase premiums. However, increased benefits will partially offset increased premiums.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.